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STATE OF MAINE

SUPREME JUDICIAL COURT

SUPREME JUDICIAL COURT

Docket No. BAR 91-4

BOARD OF OVERSEERS
OF THE BAR

v.

GERALD S. COPE

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OPINION AND ORDER

This matter came on for hearing on July 22, 1991 on the information filed by the Board of Overseers of the Bar and the answer of the defendant, Gerald S. Cope. Upon consideration of the testimony and exhibits introduced by Bar Counsel, the Court concludes that the defendant has violated some, but not all, of the Bar Rules cited in the information.

Bar Counsel has established that the defendant violated M. Bar R. 3.6(a) relating to the standards of care and judgment a lawyer must employ in the performance of professional services, M. Bar R. 3.6(f) relating to the preservation of funds and property of a client, and M. Bar R. 2(c) relating to the failure of the defendant to respond to inquiries of Bar Counsel and the Grievance Commission. The defendant, by his answer and by his testimony at the hearing, has admitted these violations. No useful purpose would be served by a detailed recitation of uncontested facts.

The Court is not satisfied that the defendant violated M. Bar R. 3.2(f)(2) relating to illegal conduct or (3) relating to dishonesty, fraud, deceit and misrepresentation. The allegations in this regard involve the sale

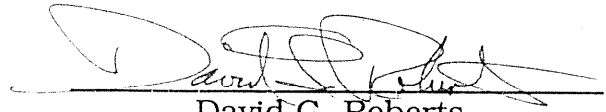
of an automobile belonging to a decedent's estate and the disposition of the proceeds, \$3,100. Admittedly the proceeds were not promptly paid over to the estate. The Court, however, accepts the defendant's explanation for his default. More specifically, the Court finds the defendant's account of events more persuasive than that of the estate's representative. In addition, the Court is not persuaded that the defendant is responsible for the use, if any, of the vehicle prior to its sale.

The concerns of the estate's representative and of her attorney were certainly exacerbated by the defendant's failure promptly to respond to legitimate inquiries. The defendant's admitted neglect of client affairs and his failure to respond to other counsel and to Bar Counsel have resulted in generating an appearance of more serious impropriety. Moreover, the defendant has previously been given a private reprimand for similar disregard of his responsibility.

The purpose of bar discipline proceedings is the "protection of the public and the courts from attorneys who by their conduct have demonstrated that they are unable . . . to discharge properly their professional duties." The violations admitted by the defendant following his earlier reprimand would support the imposition of a period of suspension. The Court is impressed, however, that the defendant now takes these matters seriously and will not, in the future disregard appropriate inquiries. Accordingly, the defendant is hereby publicly REPRIMANDED pursuant to M. Bar R. 2(d) for his failure to attend to his client's affairs with diligence and competence, his failure to properly handle client's funds, and his failure to

respond to the Grievance Commission and to Bar Counsel. The defendant is not found to have violated M. Bar R. 3.2(f).

Dated: July 25, 1991



David G. Roberts
Justice, Supreme Judicial Court